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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/027,867	02/23/1998	FRANCIS C. CARROLL	2734-CIP-Z	3765

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02/07/2002

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EXAMINER

PATTERSON, MARIE D

ART UNIT

PAPER NUMBER

3728

DATE MAILED: 02/07/2002

28

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/027,867

Applicant(s)

CARROLL, FRANCIS C.

Examiner

Marie Patterson

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3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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Claim Rejections - 35 USC § 112

1. Claims 31, 32, 35-36, and 41-43 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 31 the phrase “an axis ALT outer traction surface” is confusing, vague, and indefinite.

In claims 32, 35, 41, and 42 the phrase “said main body” lacks antecedent basis rendering the claim vague and indefinite.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 41 and 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Matulla (German patent 3811513).

Matulla shows a cleat as claimed, see figures 1a and 1.

4. Claims 39-42 are rejected under 35 U.S.C. 102(b) as being anticipated by Bouyer (French patent 2679421).

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Bouyer shows a cleat with a mounting member (2) and a plurality of “pseudo pyramid-shaped” traction teeth (3) which project outwardly (i.e. out from the base), have an outer traction surface (all surfaces 6, 6A, and 6B), and the outer traction surface (the surfaces 6A and 6B) having an outward angulation.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bouyer in view of either Kelly or Jordan.

Bouyer shows a cleat with a mounting member (2) and a plurality of “pseudo pyramid-shaped” traction teeth (3) which project outwardly (i.e. out from the base), have an outer traction surface (all surfaces 6, 6A, and 6B), and the outer traction surface (the surfaces 6A and 6B) having an outward angulation.

Bouyer shows a cleat substantially as claimed except for an anti-debris ring. Kelly or Jordan ‘114 teaches providing an anti-debris ring (24 or 7). It would have been obvious to provide an anti-debris ring as taught by either Kelly or Jordan in the cleat of Bouyer to prevent debris from getting between the cleat body and the shoe sole.

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7. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 38 above, and further in view of either Johnson or Kataoka '913.

Bouyer as modified above shows a cleat substantially as claimed except for in arguendo one does not consider the teeth of Bouyer to be "pseudo pyramid-shaped". Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Bouyer as modified above to prevent damage to the turf and to make the teeth safer to participants.

8. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bouyer in view of either Johnson or Kataoka '913.

Bouyer as discussed above shows a cleat substantially as claimed except for in arguendo one does not consider the teeth of Bouyer to be "pseudo pyramid-shaped". Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Bouyer to prevent damage to the turf and to make the teeth safer to participants.

9. Claims 33, 39, 41, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Softspikes (A unique Holiday Offer article) or Bouyer in view of either Howard (2095095) or Matulla (German patent 3811513).

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Softspikes shows a cleat with a threaded stud and a plurality of peripheral teeth substantially as claimed except for the perimeter traction teeth having an outer traction surface facing away from the axis of the threaded stud which is angled outwardly and an axis which is angled outwardly from the axis of the stud. Bouyer shows a cleat with a main body (1), a plurality of perimeter traction teeth (3), and a threaded stud (2) substantially as claimed except for the perimeter traction teeth having an outer traction surface facing away from the axis of the threaded stud which is angled outwardly and an axis which is angled outwardly from the axis of the stud.. Howard or Matulla teaches outwardly angling the outer traction surface which faces away from the axis of the threaded stud to increase traction and to ensure against lateral slipping. It would have been obvious to outwardly angle the outwardly facing surface of the plurality of traction teeth as taught by either Howard or Matulla in the cleat of either Softspikes or Bouyer to increase traction and to prevent lateral slipping.

10. Claims 31, 32, 34, 35, and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 33, 39, 41, and 42 above, and further in view of either Kelly or Jordan '114

Softspikes or Bouyer as modified above shows a cleat substantially as claimed except for an anti-debris ring. Kelly or Jordan '114 teaches providing an anti-debris ring (24 or 7). It would have been obvious to provide an anti-debris ring as taught by either Kelly or Jordan in the cleat of Softspikes or Bouyer as modified above to prevent debris from getting between the cleat body and the shoe sole.

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In reference to claim 37, it is well known and conventional to provide fillets (i.e. a member which fills a portion of a threaded member) on threaded members to lock the threaded member in place. It would have been obvious to provide fillets as is well known and conventional in threaded fasteners in the cleat of either Softspikes or Bouyer as modified above to prevent the cleat from loosening during wear.

11. Claims 36 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 31, 32, 34, 35, and 37 above, and further in view of Johnson or Kataoka '913.

Softspikes or Bouyer as modified above shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface as taught by either Johnson or Kataoka in the cleat of Softspikes or Bouyer as modified above to prevent damage to the turf and to make the teeth safer to participants.

12. Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claims 33, 39, 41, and 42 above, and further in view of Johnson or Kataoka '913.

Softspikes or Bouyer as modified above shows a cleat substantially as claimed except for the exact shape of the peripheral teeth. Johnson or Kataoka teaches shaping projection teeth with one cone shaped surface (40 or 44) and the other side being pyramid shaped (44 or 43, figure 14a). It would have been obvious to form the teeth with one cone shaped surface and one pyramid surface

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as taught by either Johnson or Kataoka in the cleat of Softspikes or Bouyer as modified above to prevent damage to the turf and to make the teeth safer to participants.

13. Claims 41-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dassler (4375728) in view of Jordan (4014114).

Dassler shows a cleat comprising a body member (14), a plurality of teeth (2-4) which are outwardly angled from a central axis of the body member substantially as claimed except for the body member being detachably connected to a sole of a shoe. Jordan teaches making a cleat comprising a body with a plurality of teeth detachably connected by providing a mounting member (9) on the body member and also teaches providing an anti-debris ring (7). It would have been obvious to provide a detachable mounting means as taught by Jordan '114 on the cleat of Dassler '728 to allow the user to replace worn or broken cleats, change cleats for different sports, etc..

In reference to claim 43, Dassler '728 teaches the angle of the teeth to be 10 and 80 degrees (column 55-57).

Response to Arguments

14. Applicant's arguments filed 1/25/02 have been fully considered but they are not persuasive.

In response to applicants' arguments directed towards Matulla, Matulla clearly shows outwardly angled outer surface of projections in figure 1a.

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In response to applicants' arguments directed towards Howard, Howard clearly discloses and teaches angling projections as an alternative position (as well as no angulation or angling the teeth inwards) for traction teeth.

1. Telephone inquiries regarding the status of application or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the Examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148 or the Tech Center 3700 Customer Service Center number is (703) 306-5648.

For applicant's convenience, the Group Technological Center FAX number is (703)872-9302 Please identify Examiner ____ of Art Unit ____ at the top of your cover sheet of any correspondence submitted. Please note that the Examiner is unable to confirm or deny receipt of Faxes.

Inquiries concerning the merits of the examination should be directed to Marie Patterson whose telephone number is (703) 308-0069.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g. copies of references cited, form PTO-1449, for PTO-892, etc. requests for copies of such papers should be directed to Valerie Douglas at (703) 308-1337.

Check out our web-site at "www.uspto.gov" for fees and other useful information.



Marie Patterson
Primary Examiner
Art Unit 3728

Attachment for PTO-948 (Rev. 03/01, or earlier)
6/18/01

The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.

INFORMATION ON HOW TO EFFECT DRAWING CHANGES

1. Correction of Informalities -- 37 CFR 1.85

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may **NOT** be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made other than correction of informalities, unless the examiner has approved the proposed changes.

Timing of Corrections

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.